



Drycleaning Environmental Response Trust (DERT) Fund - Frequently Asked Questions about Remediation

Hazardous Waste Program fact sheet

4/2006

How does the Drycleaning Environmental Response Trust (DERT) Fund program work?

The first step is to conduct a Phase I and Phase II environmental assessment on the site through the services of a qualified environmental consultant. This will give the Department of Natural Resources enough information to rank a site with the department's prioritization ranking form. These assessments will involve some environmental sampling, and a fairly comprehensive inventory of the potential receptors (wells, streams, residents, etc.) that surround the site.

The cost of this initial assessment will be borne by the owner or operator of the active dry cleaner site or the owner or developer of the abandoned dry cleaner site. The deductible amount is \$25,000 for the owner or operator of an active dry cleaner and \$25,000 for the owner of an abandoned dry cleaner site. To be eligible to have costs for chlorinated solvent cleanup reimbursed, all work plans and cost estimates must be approved by the department before the work is conducted.

After the assessment and characterization is completed, a remedial action plan is proposed for the site that will eliminate or reduce exposure to the contamination. When the remedial action phase of the project is completed, the department will issue a Certificate of Completion, which means that the department neither plans or anticipates further action at this site based on the information submitted.

How does the prioritization of sites work?

The department will take information from the Phase I and other assessments and investigations and rank the site using the department's prioritization ranking form. DERT Funds will be allocated to prioritized sites in the following proportions:

- High priority sites - 60 percent
- Medium priority sites - 30 percent
- Low priority sites - 10 percent



In any fiscal year, if the full funding allocation in any priority category is not used, those remaining funds may be reallocated to other priority categories, starting with any high priority sites and followed by medium and low priority sites. Sites with an equivalent ranking score will be prioritized in a chronological order in which a completed DERT Fund application was received. Priority will be given to sites where an immediate threat to human health and the environment exists, such as a public or private drinking water well is impacted, vapors in basements or utilities and the likelihood of direct exposure to contamination.

What areas at a former dry cleaner site should I investigate for contamination during a property transaction?

The investigation should be accomplished by placing borings in areas where hazardous chemicals or wastes may be or were present at a dry cleaning facility. This would include areas where solvents were used (under machines) or stored, dumpsters, utility lines, cracks in the floor, entryways, piping, floor drains, sump areas, sewage line to the main storm or sewer lines, known or suspected spill areas.

Must I report my solvent release to the department?

Yes, 10 CSR 25.17.050 requires that a release of a reportable quantity of solvents be reported to the department as soon as practical. Contact the department's Emergency Spill Line at (573) 634-2436 as soon as practical.

If I find historical contamination during an investigation on the property, must I report this to the department?

Yes, 10 CSR 25.17.050 requires that the discovery of existing contamination must be reported to the department as soon as practical. Contact the department's Emergency Spill Line at (573) 634-2436 as soon as practical.

I am planning to conduct remediation activities on my site, in anticipation of a sale of the property. How do I get my costs pre-approved?

All work plans must be submitted to the Department of Natural Resources for technical approval and for a review of the costs. This process may take 30 to 60 days to approve a work plan and associated costs.

How do I get my invoices reimbursed?

A claim kit (PUB2135) has been established to assist you in filing for reimbursement. The claims kit is available on the Web at www.dnr.mo.gov/env/hwp/dert/hwpvcvcp-dryclean.htm or may be obtained by contacting the department at (573) 526-8913 or P.O. Box 176, Jefferson City, Missouri 65102-0176.

How long does it take for me to receive my reimbursement check?

The DERT fund will respond to your invoices submitted within 60 days. Additionally, it takes approximately two weeks for the State of Missouri to issue a check on the claim. Therefore, it may take up to six weeks from the time your invoices are received to the time you receive your reimbursement check. Please make sure that the submission of claims is complete. If the claim information is incomplete and additional information is required, this will cause delays in receiving your reimbursement checks.

Invoices should be accumulated and submitted as a whole when each phase of a project is completed. The DERT Fund will make periodic payments during the completion of phases of work for projects that may present a financial hardship.

Is there a deductible amount for this fund?

Yes, the owner or operator of an active dry cleaning facility and the owner of an abandoned dry cleaning facility will be liable for the first \$25,000 of corrective action costs.

I own a property that has been used for several different purposes over its history, including an auto parts facility. Will all of the costs of remediation, after the \$25,000 deductible, be paid for at this site?

Not necessarily. At any multi-source site, the department shall utilize the moneys in the fund to pay for the proportionate share of the liability for corrective action costs which is attributable to a release from an active or abandoned dry cleaning facility, and that proportionate share of the liability only.

Is there a maximum amount of dollars that I will receive from the fund for investigation and remediation at dry cleaner sites?

Yes, the fund shall not be liable for the payment of costs in excess of one million dollars at any one contaminated dry cleaning site. Additionally, the fund shall not be liable for the payment of costs for any one site in excess of 25 percent of the total fund balance during any fiscal year.

To what level do I need to clean my site?

The cleanup level required at your site will be determined by applying the Missouri Risk Based Corrective Action (MRBCA) guidance document in accordance with Missouri's Brownfields/Voluntary Cleanup Section. Only those costs necessary to cleanup the chlorinated dry cleaning solvent contamination at the site to site specific levels as determined by MRBCA will be reimbursed by the DERT Fund.

Does the Fund require competitive bids for cost approvals?

Yes. The DERT Fund will request, in most instances, that a claimant get competitive bids. The bids are to be submitted to the DERT Fund for their review and approval. The DERT Fund will notify the claimant of the cost and scope of work approved.

What consultant should I use?

The DERT Fund does not provide a list of consultants and contractors to be used in conducting assessment, characterization and remediation activities at dry cleaner sites.

When choosing a consultant or contractor, check references for past work conducting site assessments, site characterizations and corrective actions at contaminated sites. You should also ask for documentation that the consultant or contractor can comply with the appropriate industry, the Missouri Department of Natural Resources and safety requirements (e.g., Occupational Safety and Health Administration (OSHA) certification). Obtain a bid for the work with detailed descriptions of the work to be performed and an estimated cost. This bid should be compared to other bids obtained for the work.

I used to operate a dry cleaning facility. What are considered eligible costs from the DERT fund?

- Investigation or assessment of a release of chlorinated dry cleaning solvent from a dry cleaning facility, including any contamination that may have migrated off-site;
- Necessary and appropriate emergency action to assure that human health or safety is not threatened by a release or potential release;
- Remediation of releases of chlorinated dry cleaning solvent from a dry cleaning facility, including any contamination that may have migrated off-site.
- Operation and maintenance of corrective action;
- Monitoring of releases from a dry cleaning facility, including any contamination that may have migrated off-site;
- Reasonable costs of restoring property as nearly as practicable to the condition that existed prior to activities associated with the investigation or remediation activities;
- Removal and proper disposal of wastes generated by a release of a chlorinated dry cleaning solvent.
- For other eligible costs, please consult the DERT Fund Claim Kit (PUB2135).

I have PCE contamination on my property, but the site never contained a dry cleaner. Can I use the DERT fund for cleanup costs?

No, moneys from the DERT fund may not be used for the following activities:

- Corrective action at sites with solvent contamination that did not result from a dry cleaner site;
- Corrective action at sites, other than dry cleaning sites, that were contaminated by dry cleaning solvents which were released while in transport to or from a dry cleaning site;
- To pay a fine or penalty brought against a dry cleaning facility operator under state or federal law;
- To pay any costs related to corrective action at a dry cleaning facility on EPA's National Priorities List (NPL);
- Corrective action at dry cleaning facilities where the owner or operator is not in compliance with RSMo 260.900 to 260.965 and rules and regulations or orders of the director pursuant to RSMo 260.900 to 260.965, or any other applicable federal or state statutes, rules or regulations;
- Corrective action at abandoned dry cleaner facilities that have been taken out of service prior to July 1, 2009, and not documented or reported to the department by July 1, 2009.
- For other ineligible costs, please consult the *DERT Fund Claim Kit* (PUB2135).

I have had some negative experiences with the Missouri Department of Natural Resources. If I have an abandoned dry cleaner site, why should I inform the Department about its existence?

A dry cleaning facility can contaminate soil or groundwater with hazardous chemicals used in dry cleaning. Such a situation can create a danger to human health or the environment. Environmental contamination can affect some of the reasons to clean up these hazardous chemicals in a timely manner are:

- **Property Transactions** The dry cleaner may be faced with difficulty in borrowing money or selling dry cleaning property if it is contaminated.
- **Potential Liability** The dry cleaner may be faced with the filing of private party lawsuits seeking compensation or cleanup if the property is contaminated.
- **Potential Enforcement Action** In the event of an emergency, the department's Environmental Services Program (ESP) to protect human health and the environment, may respond to and clean up or control releases of hazardous substances and petroleum. Costs and damages incurred by the ESP as a result of such releases are recoverable from responsible parties.

Who can be held liable for environmental clean-up costs?

The current owners of a site, tenants (including the current operators at the site), the owners at the time of waste disposal, the generators of the disposed waste, and those who transported the materials are potentially responsible for the clean-up, regardless of their particular fault or negligence. Since liability is "joint and several," each party is liable for the full amount of the clean-up cost. As a result, a purchaser may unexpectedly be required to pay enormous clean-up costs that could exceed the market value of the property.

Which statutes address the duties of property owners, tenants, and others for environmental clean-up?

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA or Superfund) and the Superfund Amendments and Reauthorization Act of 1986 (SARA) are the two major federal laws dealing with hazardous substance clean-up and liability. Other federal statutes concerning clean water, and the transportation and handling of hazardous materials and toxic substances may come into play as well. In the case of oil spills, New York State Navigation Law Article 12 governs liability and clean-up issues. State, county and local authorities often have separate laws and regulations of their own.

Can property owners or business operators be held liable for the clean-up of contaminants which migrate from their property to that of another owner?

Yes. Hazardous waste in soil, although hidden, may seep into ground water sources and migrate

to adjacent properties. The extent of an owner's exposure to liability because of migrating pollutants depends, in part, on who is using the ground water source and for what purpose it is being used. If wells providing water to homes are contaminated, the owner may, in certain instances, be subject to enormous liability.

Related publications

The following publications are available on the Web at www.dnr.mo.gov/pubs/pubs.htm.

Drycleaning Environmental Response Trust (DERT) Fund Frequently Asked Questions (PUB2186)

Transactions of Properties with Active or Abandoned Dry Cleaning Facilities (PUB2134)

Drycleaning Environmental Response Trust (DERT) Fund Claim Kit (PUB2135)

Drycleaning Environmental Response Trust (DERT) Fund - Frequently Asked Questions about Remediation (PUB2136)

Drycleaning Environmental Response Trust (DERT) Fund - Frequently Asked Questions about Registration (PUB2137)

For more information

Missouri Department of Natural Resources
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Drycleaning Environmental Response Trust (DERT) Fund
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(573) 526-8913
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www.dnr.mo.gov/env/hwp/dert/hwpvcvcp-dryclean.htm